

# HOUSE JOURNAL

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SEVENTY-NINTH LEGISLATURE, THIRD CALLED SESSION

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## PROCEEDINGS

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THIRTEENTH DAY — MONDAY, MAY 8, 2006

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 52).

Present — Mr. Speaker; Allen, A.; Alonzo; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett, C.N.; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Noriega, R.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Denny; England; Flores; Hupp.

Absent — Luna; Moreno, P.

The invocation was offered by Reverend Rusty Bullerman, Austin Stone Community Church, Austin, as follows:

Our Father, the one in heaven, we come before you with grateful hearts for the many blessings you have poured out on us and our great state. We thank you for the opportunity of self-government in a land where we enjoy unparalleled freedoms.

Heavenly Father, as this body of leaders convenes today, I ask that you grant them the wisdom to prioritize and articulate the issues needing solution. Grant a spirit of cooperative give and take to resolve the issues before them and our state. May the debate clarify and identify the path forward and resolution be in the best interest of all.

I ask your blessing on each of the representatives here who have undertaken this responsibility to lead our state. Meet the needs of their hearts. Give them the strength and patience to walk through the legislative process to achieve the goals of this session. Grant them peace of mind and a reliance upon you as they perform their duties.

I ask you to bless the families and loved ones they leave to be here to perform this service. Keep them in your protective care and watch over them in the absence of these representatives. These things we ask in the name of Jesus. Amen.

The speaker recognized Representative Krusee who led the house in the pledges of allegiance to the United States and Texas flags.

### **LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of important business in the district:

Flores on motion of R. Cook.

The following member was granted leave of absence for today and the remainder of the week because of illness in the family:

Denny on motion of Nixon.

The following member was granted leave of absence for today to attend a funeral:

Hupp on motion of Berman.

The following member was granted leave of absence for today because of illness in the family:

England on motion of Driver.

### **BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

### **REGULAR ORDER OF BUSINESS SUSPENDED**

On motion of Representative Harper-Brown and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

### **HR 477 - ADOPTED (by Goolsby, et al.)**

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 477**.

The motion prevailed.

The following resolution was laid before the house:

**HR 477**, In memory of Helen Natalie Jacobs Strauss of Dallas.

**HR 477** was unanimously adopted by a rising vote.

**HR 449 - ADOPTED**

**(by F. Brown)**

Representative F. Brown moved to suspend all necessary rules to take up and consider at this time **HR 449**.

The motion prevailed.

The following resolution was laid before the house:

**HR 449**, Congratulating Dr. Herbert H. Richardson on his retirement from the Texas Transportation Institute and The Texas A&M University System.

**HR 449** was adopted.

**HR 454 - ADOPTED**

**(by Woolley)**

Representative Woolley moved to suspend all necessary rules to take up and consider at this time **HR 454**.

The motion prevailed.

The following resolution was laid before the house:

**HR 454**, Congratulating State Representative Patrick Rose on passing the Texas State Bar exam.

**HR 454** was read and was adopted.

On motion of Representative Thompson, the names of all the members of the house were added to **HR 454** as signers thereof.

**HB 4 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Swinford submitted the following conference committee report on **HB 4** :

Austin, Texas, May 4, 2006

The Honorable David Dewhurst  
President of the Senate

The Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Janek  
Armbrister  
Averitt  
Duncan  
Nelson

Swinford  
Chisum  
Pickett  
Rose

On the part of the senate

On the part of the house

**HB 4**, A bill to be entitled An Act relating to motor vehicle sales and use taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 152.002, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

SECTION 2. Section 152.041(a), Tax Code, is amended to read as follows:

(a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

SECTION 3. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.0412 to read as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Transportation based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(b) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount paid.

(c) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount that is equal to 80 percent of the standard presumptive value of the vehicle, unless the purchaser establishes the valuation of the vehicle as provided by Subsection (d).

(d) A county tax assessor-collector shall compute the tax imposed by this chapter on the valuation of a motor vehicle if the valuation is shown on:

(1) documentation, including a receipt or invoice, provided by the seller to the purchaser of the vehicle, but only if the seller is a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or under similar regulatory requirements of another state; or

(2) an appraisal certified by an adjuster licensed under Chapter 4101, Insurance Code, by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or by an adjuster or motor vehicle dealer licensed or operating under similar regulatory requirements of another state.

(d-1) An appraisal described by Subsection (d)(2):

(1) must be on a form prescribed by the comptroller for that purpose;  
and

(2) must be obtained by the purchaser of the vehicle not later than the 20th working day after the date the motor vehicle is delivered to the purchaser or is brought into this state, as applicable.

(e) On request, a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or under similar regulatory requirements of another state shall provide a certified appraisal of the valuation of a motor vehicle. The comptroller by rule shall establish a fee that a dealer may charge for providing the certified appraisal. The county tax assessor-collector shall retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

(f) The Texas Department of Transportation shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information.

(g) This section does not apply to a transaction described by Section 152.024 or 152.025.

(h) This section does not apply to a motor vehicle disposed of in accordance with Chapter 2303, Occupations Code, Chapter 70, Property Code, or Chapter 683, Transportation Code.

(i) This section does not apply to a motor vehicle that is eligible for a specialty license plate under Section 504.501, Transportation Code.

(j) The requirements of Section 520.031, Transportation Code, continue to apply to a transferee of a used motor vehicle who obtains an appraisal under Subsection (d)(2), and obtaining an appraisal does not modify those requirements.

SECTION 4. Not later than October 1, 2006, the Texas Department of Transportation shall:

(1) establish standard presumptive values for motor vehicles as provided by Section 152.0412, Tax Code, as added by this Act;

(2) modify the department's registration and title system as needed to include that information and administer that section;

(3) make that information available through the system to all county tax assessor-collectors; and

(4) publish that information and make the published information available to any requesting person.

SECTION 5. The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect July 1, 2006, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect on the first day of the first month that begins on or after the 91st day after the last day of the legislative session.

(b) Section 152.0412, Tax Code, as added by this Act, takes effect October 1, 2006.

Representative Swinford moved to adopt the conference committee report on **HB 4**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 4** prevailed by (Record 53): 86 Yeas, 47 Nays, 2 Present, not voting.

Yeas — Anchia; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Driver; Dutton; Edwards; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hunter; Isett, C.N.; Jackson; Jones, J.; Keel; Keffer, J.; King, P.; Krusee; Kuempel; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Oliveira; Orr; Pitts; Quintanilla; Reyna; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Truitt; Uresti; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; Escobar; Farrar; Frost; Gallego; Giddings; Gonzalez Toureilles; Guillen; Harper-Brown; Hernandez; Herrero; Hochberg; Hughes; Jones, D.; Keffer, B.; King, T.; Kolkhorst; Leibowitz; Martinez; Martinez Fischer; Menendez; Noriega, R.; Olivo; Paxton; Phillips; Pickett; Puente; Raymond; Riddle; Rodriguez; Solis; Solomons; Straus; Talton; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Laney.

Absent, Excused — Denny; England; Flores; Hupp.

Absent — Anderson; Bailey; Brown, B.; Burnam; Hodge; Laubenberg; Luna; McClendon; Moreno, P.; Otto; Peña.

**STATEMENTS OF VOTE**

When Record No. 53 was taken, I was temporarily out of the house chamber. I would have voted no.

Anderson

I was shown voting yes on Record No. 53. I intended to vote no.

Branch

When Record No. 53 was taken, I was in the house but away from my desk. I would have voted yes.

B. Brown

When Record No. 53 was taken, I was in the house but away from my desk. I would have voted no.

Burnam

I was shown voting yes on Record No. 53. I intended to vote no.

Casteel

I was shown voting yes on Record No. 53. I intended to vote no.

Chavez

I was shown voting yes on Record No. 53. I intended to vote no.

Flynn

I was shown voting yes on Record No. 53. I intended to vote no.

Gonzales

I was shown voting yes on Record No. 53. I intended to vote no.

Hilderbran

When Record No. 53 was taken, I was in the house but away from my desk. I would have voted no.

Hodge

When Record No. 53 was taken, I was temporarily out of the house chamber. I would have voted no.

Laubenberg

I was shown voting yes on Record No. 53. I intended to vote no.

Merritt

I was shown voting yes on Record No. 53. I intended to vote no.

Miller

When Record No. 53 was taken, I was in the house but away from my desk. I would have voted no.

Peña

(Harper-Brown in the chair)

**HR 439 - ADOPTED**  
**(by Hernandez, Farrar, and Anchia)**

Representative Hernandez moved to suspend all necessary rules to take up and consider at this time **HR 439**.

The motion prevailed.

The following resolution was laid before the house:

**HR 439**, In memory of the Honorable Joe E. Moreno of Houston.

**HR 439** was read and was unanimously adopted by a rising vote.

On motion of Representative Chavez, the names of all the members of the house were added to **HR 439** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Hernandez who introduced Alice and Frank Moreno and other family members of the late Representative Joe E. Moreno.

Representative Driver presented the family with a Capitol print signed by all house members.

**COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Rules and Resolutions, upon adjournment today, Desk 133, for a formal meeting, to consider the calendar.

Culture, Recreation, and Tourism, upon adjournment today, E2.010, for a public hearing, to consider invited testimony.

**PROVIDING FOR A CONGRATULATORY  
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Wednesday, May 10.

The motion prevailed.

(Speaker in the chair)

**24 HOUR POSTING RULE SUSPENDED**

Representative Grusendorf moved to suspend the 24 hour posting rule to allow the Committee on Public Education to consider **HB 166** at the posted meeting tomorrow.

The motion prevailed.

**PROVIDING FOR ADJOURNMENT**

Representative C. N. Isett moved that, pending receipt of messages from the senate, the house adjourn until 11 a.m. tomorrow in memory of Harold K. Dudley of Austin.

The motion prevailed.



(Miller in the chair)

### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

### ADJOURNMENT

In accordance with a previous motion, the house, at 4:12 p.m., adjourned until 11 a.m. tomorrow.

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### ADDENDUM

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### REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

#### List No. 1

**HB 163** (By P. King), Relating to the recovery and securitization of hurricane reconstruction costs incurred by certain electric utilities outside of the Electric Reliability Council of Texas area.

To Regulated Industries.

**HB 165** (By C. Howard), Relating to the reading curriculum used in public schools and to reading textbooks for public school students.

To Public Education.

**HB 166** (By C. Howard), Relating to certification and continuing education requirements for certain public education administrators.

To Public Education.

**HB 167** (By C. Howard), Relating to the State Board of Education review of public school textbooks.

To Public Education.

**HB 168** (By Rose), Relating to the implementation of animal identification programs and the identification and tracking of exotic livestock and exotic fowl.

To Agriculture and Livestock.

**HCR 35** (By Hunter), Designating July 21, 2006, as Frances Cox Henderson Remembrance Day.

To Rules and Resolutions.

**HR 440** (By P. King), Honoring Charlie Company, 56th Brigade Combat Team, 36th Infantry Division, for its service in Iraq.

To Rules and Resolutions.

**HR 443** (By B. Cook), Directing the Texas Parks and Wildlife Department to assist the local and state advisory committees in every way possible to provide for the timely development of a plan that will allow successful continuation of the Texas State Railroad as a moving museum through efficiency and proper utilization of public and private resources.

To Appropriations.

**HR 445** (By Crabb), Expressing support for the enforcement of current immigration laws.

To State Affairs.

**HR 446** (By Hopson), Honoring Dino Sebastian Hunter on the occasion of his first visit to Austin and the State Capitol of Texas.

To Rules and Resolutions.

**HR 447** (By Goolsby), Honoring Anne Foster for her many contributions to education and to the Richardson community.

To Rules and Resolutions.

**HR 448** (By Dunnam and J. Jones), In memory of Ethel Lamone Hamilton King of Waco.

To Rules and Resolutions.

**HR 450** (By Van Arsdale), Honoring Cliff Gustafson on his induction into the inaugural class of the College Baseball Hall of Fame.

To Rules and Resolutions.

**HR 451** (By Van Arsdale), Congratulating Brooks Kieschnick on being inducted into the new College Baseball Hall of Fame in Lubbock.

To Rules and Resolutions.

**HR 452** (By Delisi), Congratulating Michala and David Denton of Pearland on the birth of their son, John Miller Denton.

To Rules and Resolutions.

**HR 453** (By Peña), Honoring Michelle Galindo Cruz and John Kenneth Arnold of Austin on their upcoming wedding.

To Rules and Resolutions.

**HR 454** (By Woolley), Congratulating State Representative Patrick Rose on passing the Texas State Bar exam.

To Rules and Resolutions.

**HR 455** (By Hughes), Honoring Clarice Evans of Mineola on her 90th birthday.

To Rules and Resolutions.

**HR 456** (By Hughes), Honoring Marvin Gordon Hackler on his 95th birthday.

To Rules and Resolutions.

**HR 457** (By B. Keffer), Honoring Alexandra L. Streng of Dallas on her 80th birthday.

To Rules and Resolutions.

**HR 458** (By McCall), In memory of W. G. "Buddy" Ragley of Plano.  
To Rules and Resolutions.

**HR 459** (By McCall), In memory of Jacqueline Schnittker of Plano.  
To Rules and Resolutions.

**HR 460** (By Naishtat), Honoring Alison Borchgrevink for her service as a legislative intern.  
To Rules and Resolutions.

**HR 461** (By Naishtat), Honoring Claire Barber for her service as a legislative intern.  
To Rules and Resolutions.

**HR 462** (By Phillips), Honoring Mayor Bill Lindsay on his service to the citizens of Denison.  
To Rules and Resolutions.

**HR 463** (By Phillips), In memory of Malcolm "Mutt" Lacy of Sherman.  
To Rules and Resolutions.

**HR 464** (By Gonzales), Honoring Victor Alvarez of McAllen for bringing enthusiasm and compassion to all his many endeavors.  
To Rules and Resolutions.

**HR 465** (By T. Smith), Honoring the community of Streetman on its 100th anniversary.  
To Rules and Resolutions.

### **MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

#### **Message No. 1**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Monday, May 8, 2006

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 4** (21 Yeas, 10 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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**APPENDIX**

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**ENROLLED****May 5 - HCR 18****SENT TO THE GOVERNOR****May 5 - HB 3, HCR 12, HCR 14, HCR 21, HCR 22, HCR 23**